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06/12/07

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 7186 of 2007

PETITIONER : Bilaspur Spinning Mills & Industries, Lalkhadan Bilaspur, A company registered under the Indian Companies Act, 1956 having Registered Office at 12, Government Place (East), Kolkata – 700 069 (West Bengal), Through its Director, Lalkhadan, Bilaspur, District: Bilaspur, Chhattisgarh.

VERSUS

RESPONDENTS :
1. Union of India, Through the Secretary, Ministry of Labour, New Delhi.
2. Employee's Provident Fund Organization, Through its Assistant Provident Fund Commissioner, Regional Office, Chhattisgarh, Block – D, Scheme 32, Indira Gandhi Commercial Complex, Pandri, Raipur, Chhattisgarh.
3. Regional Provident Fund Commissioner, Regional Office, Chhattisgarh, Block – D, Scheme 32, Indira Gandhi Commercial Complex, Pandri, Raipur, Chhattisgarh.
4. Enforcement Officer, Employees Provident Fund Organization, Bilaspur, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri Sanjay K. Agrawal, Advocate for the petitioner.
Shri Pradeep Saxena, Advocate for the respondent No. 2, 3 & 4

ORAL ORDER

(Passed on 05th day of December, 2007)

1. By way of this petition, the petitioner has approached this Court under Article 226 of the Constitution of India, challenging the impugned order dated 29.11.2006 (Annexure P/17) passed by the Employees Provident Fund Organization (Ministry of Labour, Government of India) Regional Office, Raipur, Chhattisgarh, under section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act, 1952').

2. Section 7-I of the Act, 1952 provides for statutory appeal to the Tribunal against the order passed by the Central Government or any authority,

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under the proviso to sub-section 3, or sub-section (4) of section 1, or section 3, or sub-section (1) of section 7A, or section 7B, or section 7C, or section 14B. Thus, the impugned order is appellable before the Tribunal under provisions of section 7-I of the Act, 1952.

3. Learned counsel appearing for the petitioner submits that since the order passed by the Employees Provident Fund Organization , Regional Office, Raipur, is without jurisdiction, this Court is competent to entertain this petition.

4. Learned counsel appearing for the respondent No. 2, 3 and 4, per contra, would submit that when the statutory remedy of appeal is provided, this Court should not exercise its discretion in favour of the petitioner. Even otherwise, lack of jurisdiction can be challenged before the Tribunal also.

5. Without going into the merits of the case, I am of the view that this writ petition is not maintainable in the facts of the case, as no extraordinary circumstances exist to entertain this petition, when there is already a provision of appeal to the Tribunal under the provisions of the Act, 1952.

6. Thus, in view of the foregoing, this petition is dismissed. However, the petitioner is at liberty to take recourse to alternative remedy of statutory appeal, if so advised. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit